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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections of
the Cable Television Consumer
Protection and Competition
Act of 1992

MM Docket No. 92-266

Rate Regulation

TO: The Commission

RELY COMMENTS OF THE
CITY OF WORTHINGTON, OHIO

Introduction

The administrative staff of the City of Worthington, Ohio ("City") hereby files its reply comments to the above captioned proceeding. The City of Worthington, with a population of 14,867, has had cable television service since 1976. Numerous complaints from local residents regarding high rates have been lodged with the City. The City may in the future assert its rate regulatory authority. Therefore, the City is particularly interested in the methodology to be utilized for basic and tier rates, policies related to regulation, and issues that affect subscriber bills.

Reply Comments

The City of Worthington administrative staff supports the comments submitted to the FCC by: the National Association of Telecommunications Officers and Advisors; National League of Cities; United States Conference of Mayors; and the National Association of Counties. The City staff believes that these comments reflect the municipal government interest in these matters. A key to achieving "reasonable" rates for the basic tier of cable service is finding whether current rates are reasonable and if not, reducing the rate to a "reasonable level." Similarly, tier rates found to be "unreasonable" should be reduced. See Section 623(c)(3). The methodology to achieve this should take into account the legislative policy. As indicated in Section 2, (b) "... (4) where cable television systems are not subject to effective competition, ensure that consumer interests are protected in receipt of cable service; and (5) ensure that cable television operators do not have undue market power vis-a-vis video programmers and consumers." This policy would not be met if the FCC limited regulation to future rate increases and did not reflect the historical and economic factors in an unregulated environment that lead to the rates in today's cable market.

The City staff supports the use of "benchmark" rate methodology which would not pose an undue regulatory burden for the City and should provide the cable industry and investors with a reliable mechanism for current and future planning purposes. The principal

component of the benchmark rate structure should be the rates charged by the cable system subject to effective competition. These systems, which provide subscribers with a real choice in a competitive market, provide the best means for arriving at what is a reasonable rate in a competitive market. To re-regulate markets, whose companies enjoy monopoly power, the best criteria would be the rates in existing competitive markets. Thus, what is reasonable in a competitive market would be reasonable in a noncompetitive market.

The secondary choice for a benchmark methodology is a "cost based" benchmark which would be based on normative costs for the cable industry. This would achieve a reasonable standard since it would limit the cable operator to cost plus a reasonable rate of return. It is the "normative cost" component of regulatory structure which would lessen the administrative tasks of the City.

In Cities such as Worthington, which has a historical record of rate increases, the FCC should consider adjusting such rates for prior rates of inflation. If a system had major capital improvements, this could be taken into account through regionalized, normative measures.

As with a historical component of a benchmark system, the City supports the development of a methodology that incorporates differences in basic cable system information. For example, the number of active cable channels received by subscribers should be a major component of what is determined to be a reasonable rate. The City supports such factors as can be easily determined.

Once the benchmark methodology has been ruled upon, we assert that a cable operator with rates above specified benchmarks should be required to reduce basic and tier rates. Cable operators with rates below benchmarks rate should be subject to annual price caps so that system subscribers, even though limited in number, do not face automatic, substantial increases.

Periodic revisions of the benchmark methodology should be conducted by the FCC to ensure that rates for basic service remain reasonable and cable service rates are not unreasonable.

Regulation of equipment is a particularly important component of any rate regulation scheme as rate burdens can be shifted from basic service to unbundled equipment. The Cable Act of 1992 requires that the rates for installation and equipment be based on "actual costs." See Section 623(b)(3)(A). Such unbundling will not only impact rates for subscribers, but should assist in meeting the Congressional goal of promoting competition in subscriber technology.

A benchmark rate could be established for installation and actual costs could be utilized for equipment (e.g., price of converters).

Similarly, the cost for additional outlets should include the actual cost of the equipment and installation. No charge should be included for the basic and tier programming services as they do not represent an additional cost to the operator. The City believes that such regulation should provide a ceiling and that the operator should be able to discount or waive installation fees or actual cost

structures for equipment.

Of particular concern to the City staff is the identification of costs related to franchise requirements. See Section 623(b)(4). This requirement should be reviewed in the context of the regulatory structure for basic rates. Section 623(b)(c)(vi) indicates that basic rates include amounts required to satisfy franchise requirements to support PEG look to the Cable Act of 1984, prior to the 1992 amendment, for guidance on the issue. See Section 622(c).

Regarding the implementation of any City rate regulation, the City staff supports a postcard certification process for granting rate authority to City governments. Providing flexibility to cities for the process of reviewing rates would be consistent with normal differences in operating procedures among cities. A most important component of the process, is ensuring a reasonable period of time for the City to review relevant material and take action. In such a review, the City believes it is incumbent upon the cable operator to bear the burden of demonstrating that their rate is reasonable. During the process, the City should have the authority to request information necessary to the decision making process and to enforce a rate decision, including ordering rate reductions.

For tier regulation, the City staff concurs with FCC that the City should be permitted to conduct an initial review of rate complaints. Such a review would entail application of the benchmark methodology to tier rates. Complaints, by a subscriber or City, should be filed on a simple form.

Conclusion

For the foregoing reasons, the City of Worthington
administrative staff respectfully asks that the Commission:

- (1) Implement a benchmark methodology for the regulation of
rates;
- (2) Implement a cost based structure for equipment and
additional outlets;
- (3) Implement itemization of franchise costs which do not
double bill consumers;
- (4) Implement a regulatory structure that allows cities to
obtain necessary information and provide for a reasonable
time frame for action.

Respectfully submitted,


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